

Advanced Text of a Special IRS Publication

Disaster Relief: providing assistance through charitable organizations

Disaster Relief: providing assistance through charitable organizations is for people interested in using a charitable organization to provide help to victims of disasters. These disasters may be caused by floods, fires, riots, storms, or similar large-scale adversities, or by severe hardship caused by illness, death, accident, crime or other personal events. This brochure includes:

- *advice about using an existing charitable organization*
- *advice about establishing a new charitable organization*
- *guidance about how charitable organizations can help victims*
- *information about gifts and charitable contribution rule*
- *reference publications and sources of assistance*

By using this publication at an early stage to help plan your relief efforts, your program will be able to help victims in ways that are consistent with charitable rules.

Providing aid to relieve human suffering that may be caused by a natural or civil disaster or an emergency hardship is charity in its most basic form. Charitable organizations, such as churches, are frequently able to administer relief programs more efficiently than individuals acting on their own. Charitable organizations can offer assistance over long periods of time. Even if the charity dissolves, remaining assets are permanently dedicated to accomplishing its charitable purposes and cannot be divided among the organization's members, directors or employees. Of course, there are tax advantages when using a charitable organization that qualifies for tax-exempt status. Being exempt from federal income tax reduces the organization's expenses, which may allow for additional resources to accomplish its mission. Plus, contributors to charitable organizations are eligible to receive tax deductions on their donations, and the value of these donations is not subject to gift tax, regardless of the amount. Individuals who receive assistance from a charitable organization are not subject to federal income tax on the value of the assistance.

Helping Through an Existing Charitable Organization

A tragic event can often prompt an outpouring of assistance. In the rush to provide help, organizers may spend a lot of time and funds establishing and qualifying a new charitable organization. This may be appropriate where the organizers have long-term goals or where no suitable existing charity is present. Alternatively, an existing tax-exempt, charitable organization such as a community fund, church, or relief organization operating in an allied area may be interested in establishing a program to which contributions could be directed. This may be a more practical approach than the establishment of a new charitable organization. It is important to note that the **existing charity must be given full control and authority over the program.**

Many religious organizations provide assistance in times of disaster or emergency hardships. Religious organizations that are churches, their integrated auxiliaries, or conventions or associations of churches, while not required to obtain IRS recognition of their tax-exempt status, do so voluntarily to obtain the assurance that contributions are tax deductible. Examples of integrated auxiliaries of a church include men or women organizations, religious schools, mission societies and youth groups.

The favored treatment for contributions to tax-exempt charitable organizations extends to contributions for charitable purposes to tax-exempt domestic fraternal societies, orders or associations operating under the lodge system. The lodge system means that members carry on activities through local branches or chapters called lodges, which are chartered by a parent organization. Thus, an existing fraternal organization may be a vehicle for providing relief to victims of disasters even though it is not a charitable organization.

Establishing a New Charitable Organization

Generally, a new charitable organization, with annual gross receipts in excess of \$5,000, must apply for and obtain recognition of tax-exempt status from the IRS. There are exceptions to this general rule. The most important exception, as far as disaster relief and emergency hardship organizations are concerned, applies to churches.

An organization qualifies as an exempt charitable organization if it is organized and operated exclusively for charitable purposes, serves public rather than private interests, and

refrains from engaging in any political or significant amounts of lobbying activity. Use the following IRS materials when establishing a charitable organization.

Publication 557, <i>Tax Exempt Status for Your Organization</i>	Provides basic requirements to qualify as a tax-exempt, charitable organization, and describes the application process.
Form 1023, <i>Application for Recognition of Exemption from Federal Income Tax Under Section 501(c)(3) of the Internal Revenue Code</i>	Disaster and emergency hardship relief organizations may obtain expeditious handling of their Forms 1023. The request for expeditious treatment should be included in a cover letter accompanying the application, and should explain the circumstances justifying the request; for example, a brief description of the disaster and the reason for urgency in processing the application.
Employer Identification Number (EIN)	<p>Tax-exempt organizations must have an EIN that is used to identify the organization for filing and reporting purposes. You may obtain an EIN by:</p> <ol style="list-style-type: none"> 1) Filing Form SS-4, Application for Employer Identification Number, with the IRS. You may obtain Form SS-4 with instructions at: <ul style="list-style-type: none"> • www.irs.gov • (800) 829-3676 to order IRS tax forms and publications • (703) 368-9694 to dial IRS Tax Fax from a fax machine. Follow voice prompts to have forms faxed back to you. 2) Calling Tele-TIN (Taxpayer Identification Number) program. The Tele-TIN phone numbers are included in the Form SS-4 instructions and are available by calling the Exempt Organizations IRS toll-free Customer Account Services at (877) 829-5500.

How Charitable Organizations Help Victims

The following sections emphasize how charitable organizations can provide assistance to disaster or emergency hardship victims in ways that accomplish charitable purposes.

Disaster relief or emergency hardship organizations may provide loans or grants in the form of funds, services or goods to ensure that victims have the basic necessities, such as food, clothing, housing (including household repairs), transportation, and medical assistance (including psychological counseling assistance). The type of aid that is appropriate depends on the individual's needs and resources. Immediately following a devastating flood, a family may be in need of food, clothing and shelter, regardless of their financial resources. However, they may not require long-term assistance if they have adequate financial resources. Persons who are needy and/or distressed are appropriate recipients of charity. Examples include persons who are:

- impoverished as a result of low income and lack of resources
- temporarily in need of food or shelter when stranded, injured or lost because of fire, flood, accident or other disaster

- victims of a civil disturbance
- temporarily unable to be self-sufficient as a result of a sudden and severe personal or family crisis, such as victims of crimes of violence or physical abuse
- refugees or immigrants experiencing language, cultural or financial difficulties

Charitable Class -- The group of persons that may properly receive assistance from a charitable organization is called a charitable class. A charitable class must be **large or indefinite** enough that providing aid to members of the class benefits the community as a whole. Because of this requirement, a disaster relief or emergency hardship organization cannot be formed and operated to assist **particular, pre-selected individuals**, such as a few persons injured in a particular fire. Similarly, contributions cannot be earmarked to a charitable organization for a particular individual. When a disaster or emergency hardship occurs, a charitable organization may help persons who are needy and/or distressed because they are part of a general class of charitable beneficiaries, provided the organization is in control of who gets the assistance.

Example 1: Linda's baby, Todd, suffers a severe burn from a fire, which will require considerable costs that Linda cannot afford. Linda's friends and co-workers form the Todd Foundation to raise funds from fellow workers, family members and the general public to meet Todd's expenses. Since the organization is formed to assist a **particular, pre-selected** person, it **would not qualify** as a charitable organization even though Todd is otherwise an appropriate charitable beneficiary. Alternatively, if Linda's friends and co-workers form a charitable organization to raise funds to meet the expenses of all children in the community injured by disasters where financial help is needed, then it could qualify as a charitable organization. Neither Linda nor members of Linda's family control the charitable organization. In this circumstance, the charitable organization must be in a position to determine whether any assistance for Todd is appropriate. Therefore, donors should be advised that, while funds may be used to assist Todd, their contributions might well be used for other children who have similar needs. Contributions earmarked for Todd, specifically, cannot be accepted by the organization. Because the organization is now formed and operated to assist an **indefinite** number of persons, it **would qualify** as a charitable organization.

Example 2: A hurricane causes widespread damage to property and loss of life in several counties of a coastal state. Over 100,000 homes were damaged or destroyed by high winds and floods. The **group of people affected** by the disaster **is large** enough so that providing aid to members of this group benefits the public as a whole. Therefore, a qualified charitable organization can be formed to assist a definite group of persons provided the people are part of a sufficiently large community.

Needy and Distressed Test -- Generally, a disaster relief or emergency hardship organization must have in place a needy or distressed test – a set of criteria by which it can objectively make distributions to individuals who are financially or otherwise distressed. Adequate records are required to support the basis upon which assistance is provided.

Persons do not have to be totally destitute to be needy, merely lacking the resources to meet basic necessities. Moreover, the type of information needed to support assistance may vary depending on the circumstances. A charitable organization that is distributing short-term emergency assistance may require far less documentation, in the way of victims establishing that they need relief assistance, than an organization that is distributing longer-term aid. Providing a drug rescue and telephone crisis center or rescue service to a person lost at sea or trapped by a snowstorm, flood or other disaster would not require a showing of financial need, since the individual requiring these services is distressed irrespective of the individual's financial condition.

A charitable organization that provides disaster or emergency hardship relief is not required to make a person whole, such as by rebuilding the person's uninsured vacation home destroyed by a flood or replacing a person's income after the person's business is destroyed in a riot. Furthermore, a person who is eligible for assistance because the person is a victim of a disaster or emergency hardship has no right to funds. This is especially relevant when the volume of contributions received in response to appeals exceeds the immediate needs. A charitable organization is responsible for taking into account the charitable purposes for which it was formed and the individual needs of the victims when using its discretion to distribute the funds.

Short-Term and Long-Term Assistance -- Often charitable organizations are established as a result of a particular disaster where both short-term and long-term assistance might be required.

Example: A group of persons are killed by the actions of terrorists. A charitable organization, previously formed to assist persons who are victims of terrorism in the United States, determines that some victims' spouses and dependents have adequate resources and insurance to meet immediate financial and medical needs, but others lack resources to meet these needs. The organization also determines that there will likely be a need for long-term help, such as for financial assistance and post-secondary education expenses for the victims' dependents. In this circumstance, the organization can grant funds to assist in meeting more immediate financial and medical needs. Such a grant may take into account needs likely to arise in the immediate future as well as current needs. The organization can also set aside funds for anticipated long-term needs; however, when a grant is made out of the set-aside funds, it must be based on needs that exist at the time the grant is made. Charitable funds cannot be distributed to persons merely because they are victims of a disaster. Therefore, an organization's decision about how its funds will be distributed must be based on an objective evaluation of the victim's needs at the time of the grant.

Employer-Related Assistance -- Frequently, employers provide programs that assist employees in coping with personal tragedy. At issue is whether an employer, by providing disaster or emergency hardship assistance to its employees through a charitable

organization, is chiefly serving the employer's private interests. If that happens, the organization will not qualify as charitable and the assistance will likely be taxable compensation to the employees.

Employer-related assistance programs qualify as charitable and do not result in taxable compensation to employees provided specific criteria are satisfied. The employer-related criteria do not apply to organizations where the employer does not provide any financial support, such as employee-funded disaster or emergency hardship relief organizations. These criteria demonstrate that employment is merely a factor rather than the sole basis for providing relief. See the following chart on criteria.

Criteria / Issue	Explanation
Public charity	Organization providing assistance is a public charity because the public normally supports it. Publication 557, <i>Tax-Exempt Status for Your Organization</i> , identifies distinctions between public charities and private foundations.
Organization control	The employer does not control the organization.
Organization does not provide employment benefits	The organization does not fulfill a legal obligation of the employer, such as a program that is part of a collective bargaining agreement or a program that is part of a written plan, that provides life, sick, accident, supplemental unemployment compensation or similar benefits. The organization's program is intended to provide basic necessities to persons who have encountered financial hardship for reasons beyond their control and/or to provide temporary relief to meet the necessities of life to persons who are needy and/or distressed on account of a disaster.
Charitable class	The organization's beneficiaries comprise a charitable class which is indefinite or of sufficient size.
Employment as initial qualifier	Other than as an initial qualifier, employment is not a relevant factor in the selection process, or in the amount or type of assistance provided.
Committee administers program	The organization establishes a committee to administer the program consisting of either: <ul style="list-style-type: none"> ■ persons, who aside from serving on the committee, have no financial interest in the employer, or ■ employees who represent a broad range of employees not limited to executives. These employees understand that they are acting in a personal capacity as agents of the organization rather than as representatives of the employer.
Criteria for application, selection, and disbursement of funds	The organization establishes specific written criteria for the application, selection, and disbursement of funds, including minimal information from persons seeking immediate relief and more detailed information from persons seeking more long-term assistance. The selection process is objective and nondiscriminatory.
Program is not for recruiting employment	The employer or the organization does not use the program to: <ul style="list-style-type: none"> ■ recruit employees ■ induce employees to continue their employment or to otherwise follow a course of action sought by the employer.
Hardship relief funds	The organization informs all employees of the employer that disaster and emergency hardship relief funds are available, including the criteria for application and selection.
Voluntary contributions	The organization accepts voluntary contributions from employees, the employer or others provided they are not earmarked for specific individuals.

For more information on employer-related disaster and emergency hardship relief organizations, see the 1999 Continuing Professional Education (CPE) article entitled *Disaster Relief & Emergency Hardship Programs* at [www.irs.gov.bus_info\eo](http://www.irs.gov/bus_info/eo).

Gifts and Charitable Contributions Rules

This part of the brochure discusses the tax rules that apply to persons who want to claim a tax-deductible contribution for their disaster relief or emergency hardship donations. It also explains whether gifts for disaster and emergency relief are taxable to contributors or to individual recipients.

Charitable Contributions -- As previously noted, charitable contributions are tax-deductible if made to a qualified organization. Qualified organizations include charitable organizations that the IRS has determined are exempt from federal income tax; churches, their integrated auxiliaries, and conventions or associations of churches; and domestic fraternal societies operating under the lodge system (if the contribution is to be used exclusively for charitable purposes).

Before making a contribution to an organization for disaster relief, a contributor may want to verify whether the contribution will be tax-deductible. A contributor may use any of the following means to determine if the organization is qualified to accept tax-deductible contributions.

- Call IRS Customer Service at (800) 829-1040.
- Access Publication 78, *Cumulative List of Organizations described in Section 170(c) of the Internal Revenue Code of 1986*, for a list of qualified charities at www.irs.gov/eo.

Anyone may obtain a copy of an organization's exemption application or annual information return, Form 990, *Return of Organization Exempt from Income Tax*, filed by most public charities with annual gross receipts in excess of \$25,000, or Form 990-PF, *Return of Private Foundation*, filed by private foundations. A request for the organization's exemption application, Form 990 or Form 990-PF, can be made by contacting the organization directly or by submitting Form 4506-A, *Request for Public Inspection or Copy of Exempt Organization IRS Form*, to the IRS. Form 990 and Form 990-PF may be posted on an organization's Web site.

When a contributor makes a donation to a qualified organization, the contributor must substantiate the amount of the contribution by maintaining reliable written records, such as cancelled checks or receipts. There are two different types of gifts that require written acknowledgements from the charitable organization: a single contribution of \$250 or more, and a *quid pro quo* single contribution in excess of \$75. A *quid pro quo* contribution is a payment made partly as a contribution and partly as a payment for goods or services. For example, a contributor makes a payment of \$200 to a charity and receives a \$25 ticket to a

concert sponsored by the charity. The contributor may claim a contribution deduction of \$175 on the contributor's tax return. For more information about contributions, see Publication 526, *Charitable Contributions*.

For detailed information on what a charity is required to include in the written acknowledgement statements given to donors, see Publication 1771, *Charitable Contributions (for exempt organizations) – Substantiation and Disclosure Requirements*. You can download IRS publications at www.irs.gov, or order free copies through the IRS at (800) 829-3676.

Foreign Contributions -- Contributions to domestic, tax-exempt, charitable organizations that provide assistance to persons in need and/or distress who are located in foreign locations qualify as tax-deductible contributions for federal income tax purposes provided the domestic organization has full control and discretion over the uses of such funds. If the donor is a corporation, its contributions are not deductible unless the domestic charity is itself treated as a corporation for federal tax purposes.

Contributions to foreign organizations are generally not tax-deductible, unless permitted by a tax treaty.

Example: Under the terms of the United States-Canada Income Tax Convention (Treaty), Canadian registered charities may receive tax-deductible contributions from a U.S. contributor. The deduction is limited to 30 percent of the donor's Canadian source income if the organization is a private foundation under U.S. law. The deduction is limited to 50 percent of the donor's Canadian source income if the organization is a public charity under U.S. law.

Contributions to tax-exempt, charitable organizations created under the laws of U.S. possessions are tax deductible. For federal income tax purposes, United States possessions include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands.

Gifts -- Persons can help victims of disaster or hardship by giving gifts directly to individual victims or through non-qualified organizations. This type of assistance does not qualify as tax-deductible contributions since a qualified organization is not the recipient. However, individual recipients of gifts are not subject to tax on the value of the gift, unless an employer provides the assistance for the benefit of an employee. Persons who provide gifts directly to individuals may be subject to gift tax if the value of the gift exceeds \$10,000 to a person in a particular year. The \$10,000 amount is periodically adjusted for inflation.

Sometimes providing financial assistance apart from a qualified charity is desirable.

Example: Jim, a college student and a counselor at a summer camp, accidentally rolls his old truck into a lake. The other counselors collect several hundred dollars and give the monies directly to Jim to help with the

down payment for another truck. Since the counselors are making personal gifts to a particular individual, the use of a qualified charitable organization would not be appropriate. The counselors cannot take a tax-deduction on their gifts to Jim. But, neither Jim nor the other counselors are subject to federal tax on the gift.

For more information about the taxability of gifts, see Publication 950, *Introduction to Estate and Gift Taxes*. You can download IRS publications at www.irs.gov or order free copies through the IRS at (800) 829-3676.

Additional Help on Disaster-Related Topics

Publications -- To order free IRS publications and forms, call the IRS at (800) 829-3676. Download IRS publications and forms at www.irs.gov.

Publication 526	<i>Charitable Contributions</i>
Publication 547	<i>Casualties, Disasters and Thefts (Business and Non-Business)</i>
Publication 557	<i>Tax-Exempt Status for Your Organization</i>
Publication 950	<i>Introduction to Estate and Gift Taxes</i>
Publication 1391	<i>Deductibility of Payments Made to Charities Conducting Fund-Raising Events</i>
Publication 1600	<i>Disaster Losses – Help From the IRS</i>
Publication 1771	<i>Charitable Contributions (for exempt organizations) – Substantiation and Disclosure Requirements</i>
Publication 2194	<i>Disaster Assistance Kit</i>

Telephone Assistance -- The following telephone numbers will connect you to IRS Customer Service.

(877) 829-5500	IRS Exempt Organizations Customer Account Services 8:00 a.m. – 9:30 p.m., Eastern Time, Monday – Friday for tax information specific to exempt organizations
(202) 874-1460	IRS Foreign Assistance Customer Service 8:00 a.m. – 4:30 p.m., Eastern Time, Monday – Friday for tax information specific to foreign tax issues
(800) 829-1040	IRS Customer Service for general tax information 24-7